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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,612	07/01/2003	Nicholas James Nissing	7005D	1452

27752 7590 05/17/2005

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EXAMINER

COLE, ELIZABETH M

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/611,612

Applicant(s)

NISSING ET AL.

Examiner

Elizabeth M. Cole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

1. Claims 1-13 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 of U.S. Patent No. 6,270,875. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims a multi-layered wipe comprising a first layer bonded to a second layer by a continuous network and wherein the wipe has a wet/dry caliper ratio of greater than 1.

2. Claims 1-13 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 of U.S. Patent No. 6,270,875. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims a multi-layered wipe comprising a first layer bonded to a second layer by a continuous network and wherein the wipe has a wet/dry caliper ratio of greater than 1.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined

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under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-13 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Nissing et al, U.S. Patent No. 6,060,149. Nissing et al discloses a disposable wiping article having a first layer which may comprise a nonwoven, apertured material comprising cellulosic fibers. The first layer may be bonded to the second layer by a continuous polymeric network. The wipe has a wet/dry caliper ratio of greater than 1.0. The wipe has a surface topography exhibiting regions of maximum and minimum topography.

5. Claims 1-11, 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Keck et al, U.S. Patent No. 4,522,863.

Keck et al discloses a material comprising a web layer having a surface topography comprising regions having maximum and minimum calipers and a continuous polymer network which is bonded to the web layer, where the polymer network defines bonded and unbonded regions and wherein the minimum caliper of the web corresponds to the bonded regions. The polymer network of Keck et al comprising a scrim having an adhesive thereon. The web material is bonded to the scrim material and puffs out at the unbonded regions. The web may comprise a cellulosic paper or a nonwoven material. The material may comprise a web layer disposed on either side of the adhesive scrim. The cellulosic paper may comprise a creped paper, (see the discussion at col. 1, line 16 and col. 3, lines 8-11, which states that the paper may be prepared according to U.S. Patent No. 3,837,996 which teaches employing a creped paper), and therefore would be wet extensible.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Keck et al in view of Trokhan, U.S. Patent No. 4,637,859. Keck et al discloses a wiper as set forth above. Keck et al differs from the claimed invention because Keck et al does not disclose employing an apertured cellulosic layer. Trokhan teaches that cellulosic layers which are apertured, (i.e., comprise a network structure), are soft, absorbent and possess enhanced stretch. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed the apertured cellulosic layer of Trokhan in the material of Keck et al. One of ordinary skill in the art would have been motivated to employ the material of Trokhan in the material of Keck et al by the expectation that the Trokhan material would enhance the strength, absorbency and stretch of the Keck et al material.

7. Claims 14-16, 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Thomas, U.S. Patent No. 3,546,056. Thomas discloses a method of making a wiping product comprising the steps of providing a first cellulosic layer, providing a continuous thermoplastic adhesive in the form of an adhesive coated scrim, providing a second

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cellulosic material, combining the layers and the applying heat to the laminate in order to shrink the adhesive coated scrim. See col. 3, lines 64- col. 4, lines 36.

8. Claims 14-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Manning et al, 4,731,276. Manning discloses a method of making a wiping sheet comprising the steps of providing first and second cellulosic layer, providing a scrim which is continuously coated with a plastisol such as ethylene vinyl acetate, bonding the three layers, heat treating the layers and then releasing the layers from tension which was applied during heating in order to form a puckered or quilted product. See col. 3, line 5 – col. 4, line 52.

9. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas, U.S. Patent No. 3,546,056 in view of Manning et al, U.S. Patent No. 4,731,276.

Thomas discloses a method of making a wiping sheet as set forth above. Thomas differs from the claimed invention because Thomas does not disclose employing ethylene vinyl acetate as the binder but instead teaches using polyvinyl chloride plastisol. Manning teaches at col. 4, lines 14-26, that the scrim layer in a wiping laminate may be coated with a variety of binders including ethylene vinyl acetate and poly vinyl chloride plastisol. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed ethylene vinyl acetate instead of the pvc plastisol disclosed in Thomas. One of ordinary skill in the art would have been motivated to employ the ethylene vinyl acetate because Manning

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teaches that the two were art recognized equivalents which were suitable for use as the coating for the adhesive scrim.

10. Applicant's arguments filed 2/28/05 have been fully considered but they are not persuasive. Applicant argues that the instant claims require applying a thermoplastic adhesive directly to the cellulosic web. However, the instant claims merely recite applying the thermoplastic adhesive in a continuous network. Applying the adhesive coated scrim of Thomas meets this limitation. Further, Applicant argues that Thomas requires a tensioned scrim material. However, the instant claims do not preclude the scrim being tensioned. Therefore, this rejection is maintained.

11. Applicant argues with regard to the combination of Manning and Thomas that instant claims do not require applying tension the material and the instant claims apply the adhesive directly to the cellulosic layer. However, in Thomas the scrim is fully coated in the adhesive and the scrim is applied to the cellulosic layer. Further, as set forth above, the instant claims do not preclude the step of tensioning the scrim.

12. The terminal disclaimer filed on 2/28/05 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 6623834 has been reviewed and is accepted. The terminal disclaimer has been recorded.

13. New grounds of rejection regarding claims 1-13 are applied above, therefore this action is not made final.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571)


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272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (571) 272-1478.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (703) 872-9306.



Elizabeth M. Cole
Primary Examiner
Art Unit 1771

e.m.c